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Letter dated 12 July 2017 from the Permanent Representative of Mauritius to the United Nations Office at Geneva addressed to the President of the Human Rights Council

The Permanent Mission of the Republic of Mauritius to the United Nations Office and other international organizations in Geneva presents its compliments to the secretariat of the Human Rights Council, and has the honour to transmit herewith the comments of the Government of the Republic of Mauritius in relation to the paper circulated on 21 June 2017 by the Government of the United Kingdom of Great Britain and Northern Ireland following the universal periodic review of the United Kingdom on 4 May 2017 (see annex), and to request that the present letter and the annex thereto* be circulated as a document of the Human Rights Council.

(*Signed*) Israhyananda **Dhalladoo**

Ambassador, Permanent Representative

* Reproduced as received, in the language of submission only.

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Annex to the letter dated 12 July 2017 from the Permanent Representative of Mauritius to the United Nations Office at Geneva addressed to the President of the Human Rights Council

Comments of the Government of the Republic of Mauritius in relation to the paper circulated on 21 June 2017 by the Government of the United Kingdom of Great Britain and Northern Ireland following the universal periodic review of the United Kingdom on 4 May 2017

1. The United Kingdom has consistently refused, at each and every bilateral meeting with the Republic of Mauritius, including the informal meeting of 19 June 2017 in New York, to engage in discussions on the completion of decolonization of the Republic of Mauritius despite the clear understanding reached in September 2016 in New York between the then Mauritian Prime Minister and the British Foreign Secretary Boris Johnson; instead, the United Kingdom has proposed bilateral talks on subjects totally unrelated to the subject matter of the draft United Nations General Assembly resolution and has thereby continuously frustrated the good faith engagement of the Republic of Mauritius in bilateral talks meant to discuss decolonization and the effective exercise of the Republic of Mauritius' sovereignty over the Chagos Archipelago.

2. The United Kingdom misleadingly attempted to dissuade UN Member States from voting for the draft resolution by raising the alarm that damage would be caused to both the United Kingdom and the Republic of Mauritius and to the International Court of Justice (ICJ) if the General Assembly initiative is pursued. The Republic of Mauritius wishes to clarify that the draft General Assembly resolution was presented by the Republic of the Congo on behalf of the States Members of the United Nations that are members of the Group of African States. The draft resolution which was adopted by the United Nations General Assembly on 22 June 2017 concerns a request for guidance from the ICJ to the General Assembly on an important matter of decolonization. Bilateral talks seeking to address this matter are not a basis for denying multilateral interest in this matter and bilateral talks that focus on matters irrelevant to decolonization are pointless. During meetings with the Republic of Mauritius, including on 19 June 2017, the United Kingdom has carefully avoided to discuss decolonization by making proposals completely irrelevant to that subject.

3. The United Kingdom takes a narrow view of the UNCLOS Tribunal Award. The Award clearly states that the United Kingdom has a legally binding obligation to return the Chagos Archipelago to the Republic of Mauritius when no longer needed for defence purposes. But, in any event, the draft General Assembly resolution which focuses on decolonization is completely unrelated to the UNCLOS Award and relates to breaches of the United Nations Charter and of fundamental principles of international law. Nonetheless, it is not without significance that two of the members of the UNCLOS Arbitral Tribunal opined that the detachment of the Chagos Archipelago was in breach of the principle of self-determination. The three other members of the Arbitral Tribunal did not contradict these two members, but simply opined that they had no jurisdiction to rule on the legality of the detachment.

4. The Republic of Mauritius is of the view that bilateral talks on the implementation of the UNCLOS Award can take place independently of the outcome of the request for an Advisory Opinion, and is not opposed to the resumption of such talks at a later stage. Following the understanding of September 2016, facilitated by the President of the General Assembly, the Republic of Mauritius considered that since talks relating to decolonization

would have a direct bearing on issues arising from the Award, both sides needed to focus on the former issue.

5. The request to the ICJ for an Advisory Opinion does not pose any risk of a dangerous precedent being created by way of the advisory jurisdiction of the ICJ being abusively invoked, in future, to resolve bilateral disputes as the United Kingdom alleges in an attempt to frighten States. The facts underlying the request for an Advisory Opinion, namely the dismemberment of the territory of the Republic of Mauritius, contrary to international law and General Assembly Resolutions, prior to the granting of independence to the Republic of Mauritius by the United Kingdom, are unique. An Advisory Opinion to assist the General Assembly to complete its work on decolonization in the case of the Republic of Mauritius will not create any dangerous precedent. Decolonization is a matter of multilateral interest, not of a bilateral nature, as the United Kingdom alleges in the case of the dismemberment of the Republic of Mauritius.